Opinions for the week of March 22 – March 26, 2021

USA v. Timothy Cosman No. 20-2752
Argued March 3, 2021 — Decided March 22, 2021
Case Type: Criminal
Central District of Illinois. No. 18-CR-20020 — **Colin S. Bruce**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge;* DIANE P. WOOD, *Circuit Judge;* AMY J. ST. EVE, *Circuit Judge.*

ORDER
Timothy Cosman, an obese federal inmate who suffers from asthma, sought compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i) based on his susceptibility to COVID-19. The district court denied his request, finding that—though his health conditions presented extraordinary and compelling circumstances—the factors under 18 U.S.C. § 3553(a) weighed against granting release. Cosman's sole argument on appeal is that the district court abused its discretion by not reweighing the § 3553(a) factors in the context of the pandemic. But the court appropriately weighed those factors, so we affirm.

Apostolos Xanthopoulos v. U.S. Dept. of Labor No. 20-2604
Submitted February 17, 2021 — Decided March 22, 2021
Case Type: Agency
Petition for Review of an Order of the United States Department of Labor. No. 2019-0045
Before SYKES, *Chief Judge*, and FLAUM and ROVNER, *Circuit Judges*.

FLAUM, *Circuit Judge.* Petitioner Apostolos Xanthopoulos, Ph.D., detected securities fraud by his former employer, intervening respondent Marsh & McLennan Companies, Inc., doing business as Mercer Investment Consulting ("Mercer"). When he blew the whistle by reporting his suspicions to the United States Securities and Exchange Commission ("SEC"), Xanthopoulos also indicated his fear that his reports to the SEC might jeopardize his job. When, by his account, Xanthopoulos's fears of reprisal came true, he filed a Sarbanes-Oxley complaint with the United States Department of Labor's Occupational Safety and Health Administration ("OSHA"). That complaint exceeded the 180-day statute of limitations for filing that type of complaint, so the Department of Labor dismissed it. Now, Xanthopoulos petitions this Court to review whether any of his reports to the SEC tolled the 180-day period for his Sarbanes-Oxley complaint. Xanthopoulos has not articulated a sufficient ground to equitably toll his untimely complaint, so we deny his petition for review.

USA v. Shawn Bacon No. 20-1415
Argued January 12, 2021 — Decided March 22, 2021
Case Type: Criminal
Northern District of Indiana, Fort Wayne Division. No. 1:18-CR-1-HAB — **Holly A. Brady**, *Judge*.
Before EASTERBROOK, WOOD, and ST. EVE, *Circuit Judges*.

ST. EVE, *Circuit Judge*. The controlled buy is a familiar law enforcement tool. In a typical case, officers enlist a confidential informant to buy drugs from a suspected dealer. To protect against informant deception, officers search the informant before and after the buy and frequently wire him so that they can listen in on the transaction. We have held that "a controlled buy, when executed properly," is generally "a reliable indicator as to the presence of illegal drug activity." *United States v. Sidwell*, 440 F.3d 865, 869 (7th Cir. 2006). This case presents a novel variation on the classic controlled buy. After receiving anonymous tips that Shawn Bacon was selling drugs from his home, officers conducted two controlled buys. These controlled buys were unique in that there was a second layer of separation between the officers and Bacon: an acquaintance of the informant who acted as a middleman. At the informants' requests, the middlemen went to Bacon's home, bought drugs from Bacon (or so they said), and then gave the drugs to the informants, who turned them over to the police. Officers kept the informants under

close watch, but they did not search or wire the middlemen, who were unaware of law enforcement involvement. These middlemen were unwitting participants in the controlled buys.
Based largely on the anonymous tips and the controlled buys, officers obtained a warrant to search Bacon's home, where they found an array of drugs and weapons. Federal charges followed, and a jury convicted Bacon on all counts. On appeal, Bacon submits that the district court should have granted his motion to suppress because, in his view, the "uncontrolled" middlemen derailed probable cause for the search warrant. He also challenges the court's denial of his motion for a *Franks* hearing and the sufficiency of the evidence at trial. We affirm.

USA v. Cory Lee No. 20-2824
Submitted March 19, 2021 — Decided March 23, 2021
Case Type: Criminal
Central District of Illinois. No. 2:11-cr-20001-SLD — **Sara Darrow**, *Chief Judge*.
Before DANIEL A. MANION, *Circuit Judge;* ILANA DIAMOND ROVNER, *Circuit Judge;* DIANE P. WOOD, *Circuit Judge*.

ORDER
Cory Lee, a 43-year-old federal inmate, sought compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i) based on his susceptibility to complications from COVID-19. The district court denied Lee's motion, concluding that he had not shown extraordinary and compelling reasons warranting his release under the statute. The court did not abuse its discretion in denying the motion, so we affirm.

USA v. Dwight Jackson No. 20-2680
Argued February 25, 2021 — Decided March 23, 2021
Case Type: Criminal
Northern District of Illinois, Eastern Division. No. 86 CR 426 — **John Z. Lee**, *Judge*.
Before EASTERBROOK, WOOD, and KIRSCH, *Circuit Judges*.

EASTERBROOK, *Circuit Judge*. Dwight Jackson made a career of armed bank robbery. Thirty minutes after being released from prison for two of his robberies, Jackson committed another. The district judge who sentenced Jackson concluded that nothing short of life imprisonment without the possibility of parole would bring his criminality to a close. We held on appeal that the judge was entitled to reach this conclusion. *United States v. Jackson*, 835 F.2d 1195 (7th Cir. 1987)… Only one other circuit has considered whether the 2018 Act makes old-law prisoners eligible for release under §3582(c)(1). It has held that the 2018 Act does not have this effect. *United States v. Matta-Ballesteros*, 2021 U.S. App. LEXIS 4108 (9th Cir. Feb. 12, 2021) (nonprecedential decision). For the reasons we have given, we agree with the Ninth Circuit that §3582 remains inapplicable to old-law prisoners. This means that the judgment must be AFFIRMED.

USA v. Isaiah C. Fisher No. 20-2355
Submitted March 19, 2021 — Decided March 23, 2021
Case Type: Criminal
Northern District of Indiana, South Bend Division. No. 3:15-CR-39 RLM — **Robert L. Miller, Jr.**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge;* ILANA DIAMOND ROVNER, *Circuit Judge;* DIANE P. WOOD, *Circuit Judge*.

ORDER
Isaiah Fisher, a federal inmate who had served just five years of his 16-year sentence for bank robbery, sought compassionate release under 18 U.S.C. § 3582(c)(1)(A)(i), contending that his health conditions make him susceptible to COVID-19. Accepting that Fisher's health conditions and the risks posed by the pandemic constituted an extraordinary and compelling reason for Fisher's release, the district court nonetheless denied his motion after applying the sentencing factors under 18 U.S.C. § 3553(a). It concluded that Fisher's early release would endanger the public because of his history of committing

violent crimes while on supervised release and the substantial portion of his sentence remaining. Because the court did not abuse its discretion in weighing the § 3553(a) factors, we affirm.

UFT Commercial Finance, LLC v. Richard Fisher No. 20-2012
Argued January 15, 2021 — Decided March 23, 2021
Case Type: Civil
Northern District of Illinois, Eastern Division. No. 1:19-CV-07669 — **Charles P. Kocoras**, *Judge*.
Before SYKES, *Chief Judge*, and WOOD and HAMILTON, *Circuit Judges*.

HAMILTON, *Circuit Judge*. This is a legal malpractice case. Plaintiffs are a start-up company and its founder. They have sued the company's former chief legal officer, Richard Fisher, to recover losses from an arbitration award that held them liable for years of unpaid wages owed to Fisher himself. The plaintiffs' core allegation is that they would not have been found liable to Fisher if he had not advised them to enter into what they now say was an illegal agreement to defer Fisher's own compensation until the company was able to secure more funding. The district court granted Fisher's motion to dismiss for a variety of reasons that together foreclosed the plaintiffs' malpractice claims. On appeal, the plaintiffs challenge only two of the district court's reasons. We affirm. Even if the plaintiffs were correct on both issues, their claims still could not survive the motion to dismiss.

Philip M. Karanja v. Merrick B. Garland No. 20-1834
Argued March 3, 2021 — Decided March 23, 2021
Case Type: Agency
On Petition for Review of an Order of the Board of Immigration Appeals. No. A099-027-436
Before DANIEL A. MANION, *Circuit Judge;* DIANE P. WOOD, *Circuit Judge;* AMY J. ST. EVE, *Circuit Judge.*

ORDER
Philip Mwangi Karanja, a Kenyan citizen, petitions for review of the denial of his motion to reopen his removal proceedings. He sought to reopen proceedings based on the Supreme Court's decision in *Pereira v. Sessions*, 138 S. Ct. 2105 (2018), which holds that a Notice To Appear before the immigration authorities must specify the time and place of a noncitizen's removal hearing. He argues that he never received a Notice To Appear in compliance with 8 U.S.C. § 1229 and is therefore eligible for cancellation of removal because he has been in the United States continuously for more than 10 years. Matters are not that simple, however. Since Karanja filed his petition, the Supreme Court has taken up a case to resolve a post-*Pereira* circuit split on the question whether a defective Notice can be cured through later notices. *Niz-Chavez v. Barr*, 789 F. App'x 523 (6th Cir. 2019), *cert. granted*, 141 S. Ct. 84 (U.S. June 8, 2020) (No. 19-863). Ordinarily, we would await word from the high court before resolving this kind of case, but in this instance there is no need to do so. Karanja may have suffered prejudice at his hearing as a result of the faulty notice, but he forfeited any challenge on that basis by waiting too long to raise it. We have also recently learned that U.S. Immigration and Customs Enforcement (ICE) has designated him a fugitive for failing to report to immigration officials since 2018. We therefore deny the petition on grounds of both forfeiture and the fugitive-disentitlement doctrine.

Vicki Brumbaugh v. Andrew Saul No. 20-1551
Argued January 26, 2021 — Decided March 23, 2021
Case Type: Civil
Northern District of Indiana, Fort Wayne Division. No. 1:19-cv-082 JD — **Jon E. DeGuilio**, *Chief Judge*.
Before DIANE S. SYKES, *Chief Judge;* FRANK H. EASTERBROOK, *Circuit Judge;* MICHAEL Y. SCUDDER, *Circuit Judge.*

ORDER
Vicki Brumbaugh applied twice for Social Security disability benefits. Her first application in 2013 was granted but only for a limited period because the administrative law judge ("ALJ") determined that as of

October 2014, Brumbaugh was able to perform a full range of sedentary work. Brumbaugh applied again in 2015, and a different ALJ determined that by then Brumbaugh was able to perform light work with some limitations. The district court upheld the decision, and Brumbaugh appealed. Because substantial evidence supports the second ALJ's decision, we affirm.

Vincent Foggey v. City of Chicago No. 20-1247
Argued March 3, 2021 — Decided March 23, 2021
Case Type: Civil
Northern District of Illinois, Eastern Division. No. 16 CV 10963 — **Manish S. Shah**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge;* DIANE P. WOOD, *Circuit Judge;* AMY J. ST. EVE, *Circuit Judge.*

ORDER
When Chicago police officer Vincent Foggey received a call for help from his rookie partner, he was slow to respond and effectively watched his partner struggle to arrest someone on the ground. After investigating the incident, the City of Chicago fired Foggey for violating several department rules, including failing to assist his partner. Foggey, who is an African American male, sued the City for race and gender discrimination in violation of Title VII of the Civil Rights Act of 1964. The district court ultimately entered summary judgment for the City. Because no reasonable jury could conclude that Foggey was fired based on his race or gender, rather than his failure to assist an inexperienced partner, we affirm.

Cedric Cal v. Jason Garnett No. 20-1047
Argued December 16, 2020 — Decided March 23, 2021
Case Type: Prisoner
Northern District of Illinois, Eastern Division. No. 1:14-cv-3834 — **Robert M. Dow, Jr.**, *Judge*.
Before WOOD, SCUDDER, and ST. EVE, *Circuit Judges*.

SCUDDER, *Circuit Judge*. In 1994 Cedric Cal and Albert Kirkman were convicted in Illinois state court of murder and attempted murder after a shooting left two people dead and a third victim, Willie Johnson, alive but with nine gunshot wounds. Johnson testified at trial and identified Cal and Kirkman as the shooters. Some 15 years later, Johnson recanted, stating under oath that neither Cal nor Kirkman were the shooters. Cal reacted to Johnson's recantation by seeking relief based on a claim of actual innocence. An Illinois court held an evidentiary hearing and—after finding Johnson's recantation implausible and not credible—denied Cal's request for relief. The Illinois Appellate Court affirmed. Cal then turned to federal court and filed a petition for habeas corpus relief invoking 28 U.S.C. § 2254(d)(2) and contending that the state court's rejection of Johnson's recantation testimony and denial of his actual innocence claim were based on an unreasonable determination of fact. Our court, however, recently rejected a similar argument from Cal's codefendant, Albert Kirkman, who challenged the exact same state court ruling in his own habeas corpus petition. Although the Illinois Appellate Court's decision is far from flawless, we too deny Cal federal habeas relief… For these reasons, we AFFIRM.

Harry Barnett v. Menard, Inc. No. 20-1024
Submitted March 19, 2021 — Decided March 23, 2021
Case Type: Civil
Northern District of Illinois, Eastern Division. No. 16 C 9335 — **Harry D. Leinenweber**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge;* ILANA DIAMOND ROVNER, *Circuit Judge;* DIANE P. WOOD, *Circuit Judge.*

ORDER
Harry Barnett sued Menard, Inc. for negligence, asserting that he was injured when several pieces of wood fell on his foot at one of its home-improvement stores. After a trial at which Barnett was represented by counsel, a jury found for Menards. Now proceeding pro se on appeal, Barnett argues that he deserves

a new trial because Menards introduced at trial a safety policy that it failed to produce during discovery. He further argues that the verdict was against the manifest weight of the evidence and that he was entitled to a directed verdict because the judge found that he was not comparatively negligent. We affirm.

USA v. Stanford Wylie No. 19-2140
Argued March 3, 2021 — Decided March 23, 2021
Case Type: Criminal
Northern District of Indiana, South Bend Division. No. 3:18CR121-001 — **Robert L. Miller, Jr.**, *Judge*.
Before MANION, WOOD, and ST. EVE, *Circuit Judges*.

ST. EVE, *Circuit Judge*. Stanford Wylie pleaded guilty to possession with the intent to distribute more than 5 kilograms of cocaine. *See* 21 U.S.C. § 841(a)(1). As a result of Wylie qualifying for safety-valve relief under 18 U.S.C. § 3553(f), the district court had the authority to impose a sentence without regard to the statutory minimum. The court did so with regard to Wylie's prison term, but it sentenced him to the statutory minimum of 5 years of supervised release. Because the district court imposed the term of supervised release under the erroneous belief that it was bound by the statutory minimum, we vacate that portion of Wylie's sentence and remand for the limited purpose of determining it anew.

USA v. Jeffrey Price No. 20-2640
Submitted March 12, 2021 — Decided March 24, 2021
Case Type: Criminal
Central District of Illinois. No. 09-cr-30107 — **Sue E. Myerscough**, *Judge*.
Before WILLIAM J. BAUER, *Circuit Judge;* MICHAEL S. KANNE, *Circuit Judge;* MICHAEL B. BRENNAN, *Circuit Judge*.

ORDER
Jeffrey Price, a federal inmate at FCI Milan in Michigan, moved for compassionate release in light of the COVID-19 pandemic and his underlying health conditions. The district court denied relief. Because the district court did not abuse its discretion in finding that releasing Price would endanger the community, we affirm.

USA v. Vickie Sanders No. 20-2561
Argued February 10, 2021 — Decided March 24, 2021
Case Type: Criminal
Southern District of Illinois. No. 17-cr-40043 — **J. Phil Gilbert**, *Judge*.
Before MANION, KANNE, and ROVNER, *Circuit Judges*.

KANNE, *Circuit Judge*. When COVID-19 and Legionnaires' disease began spreading in Vickie Sanders's correctional facility—where she is serving a sentence for offenses related to manufacturing methamphetamine—she became nervous about her own health. Sanders suffers from numerous medical conditions, many of which put her at higher risk of serious illness from those diseases. Represented by counsel, she petitioned the district court for compassionate release under 18 U.S.C. § 3582(c)(1)(A) in light of the outbreaks and her particular susceptibility. But after the government submitted new medical records that Sanders was foreclosed from addressing, the court denied her relief. It found that, although Sanders suffers from medical conditions that place her at greater risk of serious illness, her criminal history and the court's finding that home confinement would be unsuitable (a methamphetamine lab was found in her kitchen) weighed against sentence modification. Because the district court did not abuse its discretion or deny Sanders due process, we affirm.

Next Technologies, Inc. v. Beyond the Office Door LLC No. 20-2169
Argued January 12, 2021 — Decided March 24, 2021
Case Type: Civil

Western District of Wisconsin. No. 19-cv-217-wmc — **William M. Conley**, *Judge*.
Before EASTERBROOK, WOOD, and ST. EVE, *Circuit Judges*.

EASTERBROOK, *Circuit Judge*. Does the Constitution of the United States tell us the limits of criticism in reviews of standing desks? The district judge thought that it does, treated the plaintiff (a seller of office products) as a "limited purpose public figure," and ruled in favor of the reviewer— which sells a competing line of standing desks—under the First Amendment. 2020 U.S. Dist. LEXIS 102413 (W.D. Wis. June 10, 2020) (relying on *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964), and *GerA v. Robert Welch, Inc*., 418 U.S. 323 (1974), among other decisions). Call us skeptical about using the Constitution rather than state law or the Lanham Act, 15 U.S.C. §1125, to resolve a fight about products' attributes. But we need not decide what the Constitution has to say about this subject, because Next Technologies, the aggrieved manufacturer, lacks a good claim under Wisconsin law… So in this diversity suit, where our job is to predict how the Supreme Court of Wisconsin would rule if faced with a legal issue, we predict that it would follow *Restatement (Second) of Torts* §§ 623A, 626, and 649, which means that the district court's judgment must be AFFIRMED.

Preston Straub v. Jewel Food Stores, Inc. No. 20-2084
Submitted March 19, 2021 — Decided March 24, 2021
Case Type: Civil
Northern District of Illinois, Eastern Division. No. 1:17-cv-06401 — **Steven Charles Seeger**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge;* ILANA DIAMOND ROVNER, *Circuit Judge;* DIANE P. WOOD, *Circuit Judge.*

ORDER
Preston Straub, who is in his sixties, was fired from his job as a clerk at a Jewel Foods grocery store after he shoved another employee in the produce section. He sued the store, alleging that the discharge was really because of his age. Jewel moved for summary judgment, and, in response, Straub asked for more time to obtain discovery about two other employees who he believed were treated more favorably. The district court denied Straub's request and entered summary judgment for Jewel. The district court did not need to delay its resolution of the summary judgment motion, because the discovery Straub sought would not have helped his claim. Moreover, no reasonable jury could conclude that Straub was fired because of his age. We therefore affirm.

USA v. Latrell Coe No. 20-1990
Argued January 26, 2021 — Decided March 24, 2021
Case Type: Criminal
Southern District of Illinois. No. 4:19-CR-40083-SMY-1 — **Staci M. Yandle**, *Judge*.
Before SYKES, *Chief Judge*, and EASTERBROOK and KIRSCH, *Circuit Judges*.

SYKES, *Chief Judge*. Latrell Coe and two accomplices traveled from Indiana to a small town in southern Illinois where they robbed a Verizon store at gunpoint, fleeing with more than $25,000 in merchandise and cash. Police tracked them down, and a grand jury returned an indictment charging them with Hobbs Act robbery and brandishing a firearm in connection with a crime of violence. Coe pleaded guilty to both crimes, and the district court imposed a total sentence of 117 months in prison, the bottom of the advisory range under the Sentencing Guidelines. Coe challenges his sentence on two grounds. First, he argues that the judge improperly considered his race by relying on a false stereotype about black families. (Coe is black.) Second, he argues that the judge committed procedural error by failing to adequately consider his argument about "brain science" and the psychological immaturity of young men in their late teens. (Coe was 18 when he committed these crimes.) We reject both arguments and affirm.

Alvin Williams v. Chad Brown No. 20-1858
Submitted March 19, 2021 — Decided March 24, 2021
Case Type: Prisoner

Central District of Illinois. No. 1:18-cv-01383-MMM — **Michael M. Mihm**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge;* ILANA DIAMOND ROVNER, *Circuit Judge;* DIANE P. WOOD, *Circuit Judge*.

ORDER
Alvin Williams, an Illinois inmate, was confined to eight months' segregation for a disciplinary infraction that the prison later expunged based on problems with his disciplinary process. He sued several officers responsible for his botched disciplinary proceedings, alleging that they denied him due process and, as result of their missteps, subjected him to inhumane conditions in segregation. See 42 U.S.C. § 1983. The district court dismissed the complaint at screening for failure to state a claim, reasoning that the expungement of Williams's disciplinary infraction afforded him all the process he was due. But the expungement came five months after Williams had served his time in punitive segregation—too late to protect his liberty interest in avoiding the allegedly atypical hardships faced there. Accordingly, we vacate the judgment in part, affirm the judgment in part, and remand for further proceedings.

William White v. Federal Bureau of Investigation No. 20-1798
Submitted March 19, 2021 — Decided March 24, 2021
Case Type: Prisoner
Southern District of Illinois. No. 18-cv-841-RJD — **Reona J. Daly**, *Magistrate Judge*.
Before DANIEL A. MANION, *Circuit Judge;* ILANA DIAMOND ROVNER, *Circuit Judge;* DIANE P. WOOD, *Circuit Judge*.

ORDER
This interlocutory appeal involves a denial of William White's request that the district court order the Federal Bureau of Investigation to produce immediately tens of thousands of unreviewed documents about white supremacy and white nationalism. White had requested those documents under the Freedom of Information Act, and the FBI agreed to review and produce them at a rate of 500 pages per month, in keeping with its policy for large requests. The district court refused to order the Bureau to pick up the pace of its production. White has appealed the denial of that injunction while his other claims remain pending in the district court. We have jurisdiction over this appeal, but because the district court did not err in refusing to compel faster production, we affirm.

Tyler Kirk v. Clark Equipment Company No. 20-2983
Argued February 24, 2021 — Decided March 25, 2021
Case Type: Civil
Northern District of Illinois, Western Division. No. 17-cv-50144 — **John Robert Blakey**, *Judge*.
Before FLAUM, MANION, and KANNE, *Circuit Judges*.

FLAUM, *Circuit Judge*. Tyler Kirk suffered severe injuries to his right lower leg, foot, and ankle when the skid-steer loader he was operating for his employer tipped over. He and his wife, Melissa Kirk (collectively, the "Kirks"), brought a strict-liability action against the loader's manufacturer, defendant-appellee Clark Equipment Company, alleging a design defect and loss of consortium. The district court granted Clark's motions to exclude the testimony of the Kirks' expert and for summary judgment. The Kirks appealed the district court's order. We now affirm.

Kurt Kemp v. Alex Platz No. 20-2948
Submitted March 19, 2021 — Decided March 25, 2021
Case Type: Prisoner
Southern District of Indiana, Indianapolis Division. No. 1:18-cv-01855-JPH-TAB — **James P. Hanlon**, *Judge*.
Before DANIEL A. MANION, *Circuit Judge;* ILANA DIAMOND ROVNER, *Circuit Judge;* DIANE P. WOOD, *Circuit Judge*.

ORDER
Kurt Kemp, a 49-year-old Indiana prisoner, maintains that medical professionals at his facility ignored his spinal stenosis and history of "mini strokes." He filed this deliberate indifference action against a nurse, two doctors, and the prison's health-care services company. The district court entered summary judgment against him, concluding that no jury could find that the defendants recklessly ignored his medical needs. We affirm.

Kimberly Nelson v. City of Chicago No. 20-1279
Argued March 2, 2021 — Decided March 25, 2021
Case Type: Civil
Northern District of Illinois, Eastern Division. No. 1:17-cv-05740 — **Andrea R. Wood**, *Judge*.
Before RIPPLE, HAMILTON, and KIRSCH, *Circuit Judges*.

HAMILTON, *Circuit Judge*. Plaintiff Kimberly Nelson is a Chicago police officer who developed post-traumatic stress disorder after responding to an armed robbery. She alleges that a supervising sergeant failed to intervene when a dispatcher ignored her calls for back-up. She alleges that another sergeant edited her incident report to remove complaints about the failures to respond to her calls for back-up. In deciding this appeal, we assume that the sergeants acted or failed to act as Officer Nelson alleges, and we assume that they acted contrary to police department policy. This lawsuit is not about department policy, however. Officer Nelson seeks to recover damages under 42 U.S.C. § 1983 on the unusual theories that the sergeants violated her substantive and procedural due process rights under the Fourteenth Amendment to the United States Constitution. She also seeks to hold the City of Chicago liable as the sergeants' employer. The district court dismissed Officer Nelson's third amended complaint for failure to state a claim. We affirm.

Armando Chagoya and Robert Bartlett v. City of Chicago Nos. 19-3180 & 19-3183
Argued October 28, 2020 — Decided March 25, 2021
Case Type: Civil
Northern District of Illinois, Eastern Division. Nos. 18-cv-6468 & 14-cv-7225 — **Charles P. Kocoras**, *Judge*.
Before RIPPLE, WOOD, and BRENNAN, *Circuit Judges*.

RIPPLE, *Circuit Judge*. Current and former members of the Chicago Police Department's Special Weapons and Tactics ("SWAT") Unit brought actions on behalf of themselves and similarly situated SWAT operators against their employer, the City of Chicago ("the City"). They alleged violations of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 216(b), the Illinois Minimum Wage Law ("IMWL"), 820 ILCS 105/1 et seq., and the Illinois Wage Payment and Collection Act ("IWPCA"), 820 ILCS 115/1 et seq. In their complaint, the operators related that when they take their SWAT equipment home, they must store some of that equipment inside their residences; it cannot be left in their vehicles. The operators sought compensation for the off-duty time required to transport, load, unload, and store their gear inside of their residences. The City moved for summary judgment on all claims, and the operators filed cross-motions for summary judgment on the FLSA and IMWL claims. The district court granted summary judgment in favor of the City, and the operators filed a timely appeal. We now hold that the district court correctly determined that the activity of transporting, loading and unloading equipment to and from residences, and securing equipment inside residences is not integral and indispensable to the operators' principal activity. We therefore affirm the judgments of the district court.

Brannen Marcure v. Tyler Lynn No. 19-2978
Argued January 21, 2021 — Decided March 25, 2021
Case Type: Civil
Central District of Illinois No. 3:18-CV-03137 — **Sue E. Myerscough**, *Judge*.
Before SYKES, *Chief Judge*, and MANION and ST. EVE, *Circuit Judges*.

ST. EVE, *Circuit Judge*. This appeal asks us to address the scope of two Federal Rules of Civil Procedure: Rule 11(a) and Rule 12(b)(6). Under Rule 11(a), courts must strike unsigned documents unless the filing party promptly corrects them. Rule 12(b)(6) provides a mechanism for dismissing a claim if the movant shows that the claimant insufficiently pleaded it. While these rules may appear unrelated, they intersect in this case because the district court's application of Rule 11(a) indirectly led to its Rule 12(b)(6) dismissal of Brannen Marcure's claims.
Marcure, a pro se litigant, alleged § 1983 claims against several police officers, who filed a Rule 12(b)(6) motion to dismiss those claims. Marcure's response to their motion lacked a signature in violation of Rule 11(a). Although the district court gave Marcure six days to remedy this deficiency, he never did. The court then struck his response and granted the
officers' motion on the sole basis that it was unopposed. This appeal followed… Although we decline to adopt Marcure's interpretation of Rule 11(a), we agree that courts may not dismiss Rule 12(b)(6) motions solely because they are unopposed. We thus reverse and remand to the district court.

USA v. Robert Brunt No. 20-2643
Submitted March 26, 2021 — Decided March 26, 2021
Case Type: Criminal
Northern District of Illinois, Eastern Division. No. 07 CR 853 — **Ronald A. Guzmán**, *Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge;* DAVID F. HAMILTON, *Circuit Judge;* MICHAEL B. BRENNAN, *Circuit Judge.*

ORDER
Robert Brunt, a federal inmate, appeals the denial of his motion for compassionate release under 18 U.S.C. § 3582(c). Brunt argues that if he remains incarcerated and contracts COVID-19, his morbid obesity and hypertension place him at increased risk of serious illness or death. The district court agreed with Brunt that his medical conditions were serious but denied his request after concluding that the sentencing factors under 18 U.S.C. § 3553(a) did not support early release. Because this determination was an appropriate exercise of the court's discretion, we affirm.

USA v. Jesse Colon No. 20-2394
Submitted March 26, 2021 — Decided March 26, 2021
Case Type: Criminal
Northern District of Indiana, Hammond Division. No. 2:98 CR 103 — **James T. Moody**, *Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge;* DAVID F. HAMILTON, *Circuit Judge;* MICHAEL B. BRENNAN, *Circuit Judge.*

ORDER
Jesse Colon, convicted of eight counts of drug-trafficking, firearms, and witness- tampering offenses, was originally sentenced to the statutory maximum of life in prison plus 25 years. He later received three sentencing reductions based on changes to the Sentencing Guidelines. He now appeals the district court's denial of his motion for a further reduction under the First Step Act. Because the district court did not err in ruling that he has already benefited from available sentencing reforms, we affirm.

Brian Reid v. George Payne No. 20-2267
Submitted March 26, 2021 — Decided March 26, 2021
Case Type: Prisoner
Northern District of Indiana, South Bend Division. No. 3:19-CV-1164-PPS-MGG — **Philip P. Simon**, *Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge;* DAVID F. HAMILTON, *Circuit Judge;* MICHAEL B. BRENNAN, *Circuit Judge.*

ORDER

Brian Reid, an inmate at Indiana State Prison, appeals the dismissal of his second amended complaint, in which he alleged that prison officials had conspired to drug his food. This amended complaint did not include unrelated allegations about the condition of his cell from his first amended complaint. Because Reid's new claim was implausible and he abandoned his earlier allegations, we affirm.

Oscar Perez v. Robert Carter No. 20-2079
Submitted March 26, 2021 — Decided March 26, 2021
Case Type: Prisoner
Southern District of Indiana, Terre Haute Division. No. 2:19-cv-00401-JRS-MJD — **James R. Sweeney II**, *Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge;* DAVID F. HAMILTON, *Circuit Judge;* MICHAEL B. BRENNAN, *Circuit Judge.*

ORDER
Oscar Perez, a prisoner at the Wabash Valley Correctional Facility in Carlisle, Indiana, during the relevant period, brought a petition under 28 U.S.C. § 2254 challenging a disciplinary conviction. The parties agree that the disciplinary hearing officer violated his due process rights by failing to secure the in-person testimony of an allegedly exculpatory witness whose presence Perez had properly requested. The district court, however, denied Perez's petition on the ground that the violation did not prejudice him and was therefore harmless. Because Perez did not explain how the live testimony could have changed the outcome, we affirm.

Leo Dillon v. Indiana Department of Child Services No. 20-1832
Submitted March 26, 2021 — Decided March 26, 2021
Case Type: Civil
Southern District of Indiana, Evansville Division. No. 3:19-cv-00214-RLY-MPB — **Richard L. Young**, *Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge;* DAVID F. HAMILTON, *Circuit Judge;* MICHAEL B. BRENNAN, *Circuit Judge.*

ORDER
After a state court garnished his wages for child support, Leo Dillon sued the Indiana Department of Child Services and Matthew Keppler, the deputy prosecutor of Vanderburgh County, for obtaining adverse state-court orders. Because the district court correctly dismissed Dillon's complaint as barred by the *Rooker-Feldman* doctrine, we affirm.

Jose Medrano v. James Boland No. 19-1693
Submitted March 26, 2021 — Decided March 26, 2021
Case Type: Prisoner
Central District of Illinois. No. 16-cv-1333-MMM — **Michael M. Mihm**, *Judge*.
Before FRANK H. EASTERBROOK, *Circuit Judge;* DAVID F. HAMILTON, *Circuit Judge;* MICHAEL B. BRENNAN, *Circuit Judge.*

ORDER
Jose Medrano, an Illinois inmate, sued several officials at the Pontiac Correctional Center for allegedly placing him in administrative segregation under unduly harsh conditions and stealing his legal documents in retaliation for his filing of a lawsuit and grievances. The district court dismissed a portion of the complaint at screening and ultimately entered summary judgment for the defendants. On appeal, Medrano principally contests the court's decision not to recruit pro bono counsel to represent him. Because the district court reasonably concluded that Medrano could proceed without counsel, and his other challenges lack merit, we affirm.